

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JORGE GALEAS-MENCHU-EL, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:22-cv-909
	)	
EDDIE M. BUFFALOE, JR.,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before this court for review of the Order and Recommendation ("Recommendation") filed on October 31, 2022, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 2.) In the Recommendation, the Magistrate Judge recommends that this action be construed as a habeas petition under 28 U.S.C. § 2254 and dismissed sua sponte without prejudice to Petitioner filing a new petition which corrects certain defects, including the defect that "P[etitioner]'s claim consists of conclusory legal jargon which is not fully understandable as a coherent claim." (Id.) The Recommendation was served on the Petitioner on October 31, 2022. (Doc. 3.) Petitioner filed

objections to the Recommendation, as well as several other filings. (Docs. 4-10.)<sup>1</sup>

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the Recommendation as well as Petitioner's filings and has made a de novo determination which is largely in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation in part, see 28 U.S.C. § 636(b)(1)(C), with the exception that the sua sponte dismissal of the Petition will be with prejudice because the frivolous nature of the claims Petitioner seeks to raise has become clear as a result of his additional filings.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (Doc. 2), is **ADOPTED IN PART**.

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<sup>1</sup> Petitioner also paid the \$5.00 filing fee on November 22, 2022 (see Doc. Entry dated Nov. 22, 2022), correcting one of the defects cited in the Recommendation (see Doc. 2 at 1).

**IT IS FURTHER ORDERED** that this action be, and is hereby **DISMISSED** as frivolous under Rule 4 of the Rules Governing Section 2254 Cases, and the Court denies a certificate of appealability.

This the 2nd day of March, 2023.

  
United States District Judge